



Child Welfare Information Gateway

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STATE
STATUTES
SERIES

*Current Through
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Access to Adoption Records

In nearly all States, adoption records are sealed and withheld from public inspection after the adoption is finalized. Most States have instituted procedures by which parties to an adoption may obtain nonidentifying and identifying information from an adoption record while still protecting the interests of all parties.

Nonidentifying Information

Nonidentifying information is generally limited to descriptive details about an adopted person and the adopted person's birth relatives and is provided

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Administration for Children and Families
Administration on Children, Youth and Families
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to the adopting parents at the time of the adoption. Nonidentifying information may include the following:

- Date and place of the adopted person's birth
- Age of the birth parents and general physical description, such as eye and hair color
- Race, ethnicity, religion, and medical history of the birth parents
- Educational level of the birth parents and their occupation at the time of the adoption
- Reason for placing the child for adoption
- Existence of other children born to each birth parent

All States and American Samoa have provisions in statute that allow access to nonidentifying information by an adoptive parent or a guardian of an adopted person who is still a minor. Nearly all States allow the adopted person to have access to nonidentifying information about birth relatives, generally upon written request. The adopted person must be an adult, usually at least 18 years of age, before he or she may access this information.¹

Approximately 27 States allow birth parents access to nonidentifying information.² In addition, many States give such access to adult birth siblings.³ Policies on what information is collected and how that information is maintained and disclosed vary from State to State.

Restrictions on Release of Nonidentifying Information

A few jurisdictions are more restrictive about the release of information from adoption records. New York, Oklahoma, and Rhode Island require the person seeking nonidentifying information to register with the State adoption registry. Pennsylvania and Guam

¹ California, Idaho, Nevada, and New Jersey allow access to adopting parents only.

² The word *approximately* is used to stress the fact that the States frequently amend their laws; this information is current only through January 2006. The States that allow birth parents access to nonidentifying information include Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Montana, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, and West Virginia.

³ States that allow access to adult birth siblings include Arizona, Colorado, Michigan, Mississippi, Montana, New Mexico, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Utah, and Vermont.

require a party to petition the court before any information can be released.

Nonidentifying information generally includes medical and health information about the child and the child's birth family at the time of the adoptive placement. The statutes in Alabama, Illinois, Kansas, Maryland, Minnesota, Mississippi, and Wyoming allow the adoptive parents to request the department to contact the birth parents any time postadoption for additional health information when there is a medical need.

Identifying Information

Identifying information is any data that may lead to the positive identification of an adopted person, birth parents, or other birth relatives. Identifying information includes the current name of the person. It usually also includes an address or other contact information so that adopted persons and birth relatives can arrange personal contact. The statutes in nearly all States permit the release of identifying information when the person whose information is sought has consented to the release.⁴

Many States ask birth parents to specify at the time of consent or relinquishment whether they are willing to have their identity disclosed to the adopted person when he or she is age 18 or 21.⁵ If consent is not on file, the information may not be released without a court order documenting good cause to release the information.⁶ A person seeking a court order must be able to demonstrate by clear and convincing evidence that there is a compelling reason for disclosure that outweighs maintaining the confidentiality of a party to an adoption.

Access to information is not always restricted to birth parents and children. Approximately 33 States allow biological siblings

⁴ New Jersey, the District of Columbia, American Samoa, and Guam require a court order for release of identifying information. The Virgin Islands requires a court order for release of information to any person other than the adult adopted person. The statutes in American Samoa and Puerto Rico do not currently address the issue of the release of identifying information.

⁵ Joan H. Hollinger et al., *Adoption Law and Practice* § 13-A.01 (2001).

⁶ In New Jersey, the District of Columbia, American Samoa, and Guam, identifying information can be released only by order of the court. In the Virgin Islands, identifying information can be released only to the adult adopted person or by court order.

of the adopted individual to seek and release identifying information upon mutual consent.⁷

Some States have imposed limitations on the release of identifying information. Arkansas, Mississippi, South Carolina, and Texas require the adopted person to undergo counseling about the possible consequences of contact with his or her birth family before any information is disclosed. In Connecticut, release of identifying information is prohibited if it is determined that the requested information would be seriously disruptive to any of the parties involved.

Mutual Consent Registries

A mutual consent registry is one method many States use to arrange the consents that are required for release of identifying information. A mutual consent registry is a system whereby individuals directly involved in adoptions can indicate their willingness or unwillingness to have their identifying information disclosed. Approximately 29 States have established some form of a mutual consent registry.⁸

Procedures for mutual consent registries vary significantly from State to State. Most registries require consent of at least one birth parent and an adopted person over the age of 18 or 21, or of adoptive parents if the adopted person is still a minor, in order to release identifying information. Most of the States that have registries require the parties seeking to exchange information to file affidavits consenting to release of their personal information. However, eight States will release information from the registry upon request, unless the affected party has filed an affidavit requesting nondisclosure.⁹

⁷ Arizona, Arkansas, California, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, and Wyoming.

⁸ Arkansas, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Michigan, Missouri, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, and West Virginia.

⁹ The States that will release identifying information unless a nonconsent has been filed are Hawaii, Indiana (for adoptions finalized after 12/31/1993), Maryland (for adoptions finalized after 1/1/2000), Michigan (for adoptions finalized before 5/28/1948 or after 9/12/1980), Minnesota (for adoptions finalized after 8/1/1982), Nebraska (for adoptions finalized after 9/1/1998), Ohio, and Vermont (for adoptions finalized after 7/1/1986).

Other Methods of Obtaining Consent

States that have not established registries may use alternative methods for disclosing identifying information. Search and consent procedures authorize a public or private agency to assist a party in locating birth family members to determine if they consent to the release of information. Some States have a type of search and consent procedure called a confidential intermediary system.¹⁰ In this system, an individual called a confidential intermediary is certified by the court to have access to sealed adoption records for the purpose of conducting a search for birth family members to obtain their consent for contact. Other States use an affidavit system through which birth family members can file either their consent to the release of identifying information or nonconsent to register their refusal to be contacted or to release identifying information.¹¹ The written permission may be referred to as a consent, waiver, or authorization form.

Original Birth Certificate

When an adoption is finalized, a new birth certificate for the child is customarily issued to the adoptive parents. The original birth certificate is then sealed and kept confidential by the State registrar of vital records. In the past, nearly all States required a court order for adopted persons to gain access to their original birth certificates. In approximately 29 States, the District of Columbia, American Samoa, Guam, and Puerto Rico, a court order is still required to gain access to the original birth certificate.¹² However, in many States, the laws are changing to allow easier access to these records. Some of the methods now available include:

- Available through court order when all parties have consented¹³

¹⁰ The States using confidential intermediaries include Alabama (when consent is not on file), Colorado, Illinois (to obtain updated medical information), Michigan (when consent is not on file), Montana, Oklahoma, and Washington.

¹¹ Alabama, Alaska, Arizona, California, Connecticut, Kentucky, Massachusetts, Minnesota, Mississippi, Nebraska, New Hampshire, New Mexico, North Carolina, and Wisconsin.

¹² Arizona, Arkansas, California, Connecticut, Florida, Georgia, Hawaii, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia, and Wyoming.

¹³ Idaho, Mississippi, and the Northern Mariana Islands.

- Available upon request to the adult adopted person¹⁴
- Available upon request to the adopted person unless the birth parent has filed an affidavit denying release of confidential records¹⁵
- Available to persons who have established their eligibility to receive identifying information through a State adoption registry¹⁶
- Available when consents to the release of identifying information from the birth parents are on file¹⁷

For contact information for the State agency or department that assists in accessing adoption records, go to Child Welfare Information Gateway's National Adoption Directory and search under State Reunion Registry or State Confidential Intermediary Service:

www.childwelfare.gov/nad

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as in agency regulations, case law, and informal practices and procedures.

¹⁴ Alabama (at age 19), Alaska (at age 18), and the Virgin Islands.

¹⁵ Delaware, Montana (for adoptions finalized on or after 10/1/1997), Nebraska (for adopted adults age 25 or older), Maryland (for adoptions finalized on or after 1/1/2000), Nebraska (for adoptions finalized on or after 7/20/2002), Ohio, Oklahoma (for adoptions finalized on or after 11/1/1997 and there are no birth siblings under age 18 who have been adopted), and Washington (for adoptions finalized on or after 10/1/1993).

¹⁶ Illinois (for adoptions finalized after 1/1/2000), Indiana (for adoptions finalized after 12/31/1993), Michigan, Rhode Island, Tennessee, and Vermont.

¹⁷ Colorado (effective 1/1/2006), Nebraska (for adoptions finalized on or after 9/1/1998), Pennsylvania, and Wisconsin.